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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 JOHN BROWN,

12 Plaintiff,

13 v.

14 TAKEUCHI MFG. CO. (U.S.), LTD., et
15 al.,

16 Defendants.
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No. 2:21-CV-0392-JAM-DMC

ORDER

18 Plaintiff, who is proceeding with retained counsel, brings this civil action.
19 Pending before the Court are declarations filed by counsel for Defendant Takeuchi Mfg. Co.
20 (U.S.), Ltd. (Defendant) regarding reasonable expenses incurred as a result of two unopposed
21 motions to compel. See ECF Nos. 83 and 87.

22 On December 20, 2022, Defendant filed an amended motion to compel Plaintiff to
23 respond to written discovery requests. See ECF No. 74. The matter was noticed for hearing
24 before the undersigned in Redding, California, on January 18, 2023. See id. As of January 17,
25 2023, Plaintiff had not filed a response to the motion to compel and the Court issued an order
26 vacating the January 18, 2023, hearing and granting Defendant's unopposed motion. See ECF
27 No. 81. Defendant's counsel was directed to file a declaration regarding reasonable expenses.
28 See id. Defendant's counsel complied and filed a declaration on January 23, 2023. See ECF No.

83 (first declaration). Plaintiff did not file a response to the first declaration.

On January 20, 2023, Defendant filed a motion to compel Plaintiff to provide supplemental initial disclosures. See ECF No. 82. The matter was noticed for hearing before the undersigned in Redding, California, on February 22, 2023. See id. As of February 10, 2023, Plaintiff had not filed a response to the motion to compel and the Court issued an order vacating the February 22, 2023, hearing. See ECF No. 84. On March 22, 2023, the Court issued an order granting Defendant's second unopposed motion to compel. See ECF No. 86. As with the prior motion, Defendant's counsel was directed to file a declaration regarding reasonable expenses. See id. Defendant's counsel complied and filed a declaration on March 29, 2023. See ECF No. 87 (second declaration). Plaintiff filed a response to the March 29, 2023, declaration on April 7, 2023. See ECF No. 91.

Pursuant to Federal Rule of Civil Procedure 37(a)(5)(A), the Court must award to a party prevailing on a motion to compel that party's reasonable expenses associated with the motion. In the first declaration, Defendant's counsel states that attorney Lucina Rios spent four hours on the December 2022 motion to compel, at a rate of \$210.00 per hour, and attorney Neil Kliebenstein spent one hour on the December 2022 motion to compel, at a rate of \$350.00 per hour, for a total of \$1,190.00 in expenses. See ECF No. 83, pg. 2. Plaintiff did not file a response to Defendant's first declaration. The Court finds both the number of hours spent and the hourly rates charged, as set forth in the first declaration, to be reasonable.

In the second declaration, Defendant's counsel states that attorney Lucina Rios spent eleven hours on the January 2023 motion to compel, at a rate of \$210.00 per hour, and attorney Neil Kleibenstein spent one hour on the January 2023 motion to compel, at a rate of \$350.00 per hour, for a total of \$2,660.00 in expenses. See ECF No. 87, pg. 2. In his response to Defendant's second declaration, Plaintiff contends that the eleven hours spent by attorney Rios are unreasonable. See ECF No. 91. The Court tends to agree. As with the December 2022 motion to compel, the January 2023 motion was unopposed. Neither motion was complex or involved voluminous discovery. Neither motion was opposed. Though the January 2023 motion was accompanied by a joint statement, that statement largely consists of Defendant's argument as

1 set forth in separate points and authorities. The Court also notes that both the December 2022
2 and January 2023 motions are approximately the same length in total paperwork filed. The Court
3 does not see a reason why counsel expended more than twice the amount of time to prepare the
4 January 2023 motion. The Court finds that \$1,190.00 – the amount associated with the December
5 2022 motion – represents a reasonable amount in expenses associated with the January 2023
6 motion.

7 Accordingly, IT IS HEREBY ORDERED as follows:

- 8 1. Defendant Takeuchi Mfg. Co. (U.S.), Ltd. Is awarded reasonable expenses
9 in the total amount of \$2,380.00 in reasonable expenses.
- 10 2. Plaintiff shall pay to Defendant Takeuchi Mfg. Co. (U.S.), Ltd. this amount
11 within 30 days of the date of this order.

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13 Dated: April 23, 2023



14 DENNIS M. COTA
15 UNITED STATES MAGISTRATE JUDGE
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